

COMMENTS TO PETITION FOR RULEMAKING

DOCKET NO. 93-90

May 26, 1993

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MAY 27 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mme. Donna Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20036

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MAY 27 1993

ATTENTION: Rules and policy Division, Mass Media Bureau

FCC MAIL BRANCH

Dear Madame Secretary:

AGPAL BROADCASTING INC., hereby submits the following comments, in support of our Petition for Rulemaking, filed March 31, 1993.

AGPAL Broadcasting Inc. does intend to apply for Channel 264C-2 at Toledo, Oregon if allotted. Additionally, upon Grant of Authorization, AGPAL Broadcasting Inc will promptly construct the station.

As an additional comment to our Petition for Rulemaking, AGPAL Broadcasting Inc. hereby verifies that the information containing in our Petition for Rulemaking dated March 1, 1993 is to the best of our knowledge true.

By:



Andrew F. Harle
President AGPAL BROADCASTING INC.
KZUS-FM
P.O. BOX 456
Newport, Oregon 97365

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 93-90

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Toledo, Oregon) RM-8198

NOTICE OF PROPOSED RULE MAKING

Adopted: March 22, 1993; Released: April 13, 1993

Comment Date: June 4, 1993

Reply Comment Date: June 21, 1993

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by AGPAL Broadcasting Co. ("petitioner"), requesting the substitution of Channel 264C2 for Channel 264A at Toledo, Oregon, and the modification of Station KZUS' license to specify operation on the higher class channel. Petitioner failed to state its intention to apply for the channel, if allotted. It is therefore requested to do so in comments herein.¹

2. We believe the public interest would be served by proposing the substitution of Channel 264C2 for Channel 264A at Toledo since it could provide the community with a wide coverage area FM service. Channel 264C2 can be allotted to Toledo in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.9 kilometers (4.9 miles) northwest to avoid a short-spacing to Station KICE, Channel 264C1, Bend, Oregon.² As requested, we also propose to modify Station KZUS' license to specify operation on Channel 264C2. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 264C2 at Toledo or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

3. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

City	Present	Channel No.	Proposed
Toledo, Oregon	264A		264C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 4, 1993, and reply comments on or before June 21, 1993, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

AGPAL Broadcasting Co.
P.O. Box 456
Newport, Oregon 97365
(Petitioner)

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MAY 27 1993

FCC MAIL BRANCH

6. The Commission has determined that the provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

¹ Petitioner is also requested to submit a statement verifying that the information contained in its petition is true to the best of its knowledge, as required by Section 1.52 of the Commis-

sion's Rules.

² The coordinates for Channel 264C2 at Toledo are North Latitude 44-39-01 and West Longitude 124-01-42.

FEDERAL COMMUNICATIONS COMMISSION

of service. (See Section 1.420(a), (b) and (c) of the Com-



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LETTER PETITION FOR RULEMAKING

MARCH 1, 1993
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Mme. Donna Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20036

FCC MAIL BRANCH

ATTENTION: Rules and Policy Division, Mass Media Bureau

Dear Madame Secretary,

This letter constitutes a Petition for Rulemaking to revise 47CFR73.202 to change the FM channel allotment at Toledo, Oregon, on channel 264 from class A to class C-2.

The proposal fully meets the requirement of the Commission's Rules as outlined in the attached engineering statement.

Sincerely,
AGPAL Broadcasting co.
Licensee of FM Broadcast Station KZUS(FM)

By
Corporate Officer

JAMES B. HATFIELD, PE
BENJAMIN F. DAWSON III, PE
THOMAS M. ECKELS, PE

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ENGINEERING REPORT:

MAY 27 1993

PETITION FOR RULEMAKING TO
AMEND SECTION 73.202 OF THE RULES
AND REGULATIONS
OF THE FEDERAL COMMUNICATIONS COMMISSION

FCC MAIL BRANCH

WITH RESPECT TO
FM CHANNEL 264 AT
TOLEDO, OREGON

AGPAL BROADCASTING INC.

6/92

This Engineering Statement has been prepared on behalf of Agpal Broadcasting, Inc. in support of a Petition for Rulemaking to amend §73.202 of the Commission rules with respect to the class of the Toledo, Oregon FM channel allotment in use by station KZUS(FM).

It is proposed to revise §73.202 to specify channel 264C2 rather than channel 264A. As outlined in the attached channel study, channel 264C2 can be assigned for use at Toledo in complete compliance with the Commission's applicable Rules and Regulations regarding the separation among FM channel allotments and assignments. The site used for this study is located 1.3 kilometers northwest of the site presently used by KZUS. City grade coverage of the city of Toledo with the use of class C2 facilities from the proposed site is easily provided, since the site is less than 10 kilometers from the most distant portion of the city.

This Engineering Statement has been prepared by the undersigned or under my immediate direction. All representations herein are true to the best of my knowledge. I am an experienced radio engineer whose qualifications are a matter of record with the Federal Communications Commission. I am a partner in the firm of Hatfield & Dawson, Consulting Engineers, and am Registered as a Professional Engineer in the States of California and Washington.

June 22, 1992



Hatfield & Dawson
Consulting Engineers

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JUN 21 1991

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06/21/91

FM SEPARATION STUDY

Job Title :Toledo Class c-2

Separation Buffer 100 km

FCC DB Date : 04/28/92

Channel 264C2 (100.7 MHz)

Coordinates : 44-39-01 124-01-42

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
K265CZ CP Translator for KMGE, Eugene, OR	Oakridge OR	BPFT910603XJ	265D 100.9	.181 168.0	43-44-34 122-26-03	127.9	162.52 .00	0 TRANS
K265CM LIC TRANSLATOR FOR KRWQ, GOLD HILL, OR.	Roseburg OR	BLFT870908TB	265D 100.9	.018 DA 240.0	43-12-10 123-22-53	161.9	169.02 .00	0 TRANS
K265CP LIC TRANSLATOR FOR KCMS, EDMONDS, WA.	Astoria OR	BLFT880908TC	265D 100.9	.110 DA 251.0	46-15-46 123-53-19	3.4	179.56 .00	0 TRANS
K265BH LIC TRANSLATOR FOR KRWQ, GOLD HILL, OR.	Riddle, etc. OR	BLFT840424MC	265D 100.9	.0	43-00-13 123-21-24	163.4	190.78 .00	0 TRANS
PADD PRM	Winchester Bay OR	RM7765	266A 101.1	.0	43-40-30 124-10-18	186.1	108.98 53.98	55 CLEAR
KUFO LIC	Portland OR	BLH821018AR	266C 101.1	100. 500.0	45-30-58 122-43-59	46.1	140.22 35.22	105 CLEAR
NEW APP	Sutherlin OR	BPH911003MB	266A 101.1	.2 514.0	43-23-49 123-28-09	162.0	146.31 91.31	55 CLEAR
PDEL PRM	Sutherlin OR	RM7765	266A 101.1	.0	43-23-18 123-19-00	157.7	151.39 96.39	55 CLEAR
ALC	Sutherlin OR	Docket84-231	266A 101.1	.0	43-23-18 123-19-00	157.7	151.39 96.39	55 CLEAR
NEW APP	Sutherlin OR	BPH911003MG	266A 101.1	2.0 163.0	43-21-59 123-18-56	158.0	153.69 98.69	55 CLEAR

** End of separation study for channel 264C2 **